

## The Sun

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## As to the Alleged Law of Nations.

An associate professor of law in the Northwestern University, Mr. CHARLES C. HYDE, catalogues in the *Green Bag* for April the cases in which the Executive Department of the United States Government has concluded international agreements or contracts other than treaties; that is to say, without the advice and consent of the Senate. The instances are not very numerous. On the whole, they are not very important. They constitute whatever precedent exists for the protocol of Jan. 31, 1903, between the United States and the Dominican Republic, the artificial foundation stone of our present relations with that foreign country.

Of such purely executive agreements or pseudo-treaties Mr. HYDE remarks:

"It must be assumed that in each case where an agreement other than a treaty has been negotiated with a friendly State there has been a sincere belief on the part of the Executive that the Constitution has not been violated, and that a valid international contract has been negotiated. If the President in many instances such as have been cited may lawfully contract with foreign nations without the advice and consent of the Senate, no constitutional declaration is needed in order to attach a legal consequence to a compact so concluded, and render it binding upon the United States."

"As a result of its membership in the family of civilized States, the country of necessity recognizes as a part of its local law the law of nations. According to that law, agreements of the United States, not in violation of the Constitution or of the accepted public policy of the civilized world, whether treaties or agreements other than treaties, in whatever form expressed, are a part of the supreme law of the land."

What remarkable contents for a *Green Bag*, or any other bag! What extraordinary reasoning for a professor of law in the Northwestern University! It has been believed that the supreme law of the land, under the Constitution, can be enacted only in the form of a statute, or, what amounts to the same thing, a joint resolution of Congress approved by the President, or, again, a treaty ratified by the Senate in the manner clearly prescribed by the Constitution.

Yet here is an associate professor informing the public, and we fear, instructing the innocent pupils who pay their tuition fees for the privilege of sitting at his feet, that there is a fourth process by which the supreme law of this land can be enacted: namely, by the independent volition of the Executive, without the concurrence of the Congress or either house of the Congress, and solely with the authorization of the "law of nations." If there seems to be no express prohibition in the Constitution, the President may search the "law of nations," select what he finds therein that suits his purpose or convenience, and treat that as a part of the supreme law of this land.

We do not suppose that Mr. HYDE goes so far as to hold that the powers of the Executive cover everything that is not expressly denied by the Constitution. That would be turning things topsy-turvy. But if the associate professor is right in his doctrine concerning the "law of nations," or the "accepted public policy of the civilized world," as the warrant which enables an American President to enact supreme law for the United States without the assistance of Congress, it becomes more than ever important to know what the "law of nations" is, and by what authoritative hand it has been written.

## An Assyriologist's Dreams.

Possibly the relation in another column of the strange nocturnal adventures which have befallen Prof. HILPRECHT, who is just now the storm center of so much learned controversy, will surprise many readers. However, well known it may be among the distinguished professors of Assyriology that he owes his achievements in archeological research to the inspiration of dreams, the circumstance certainly has not been sufficiently emphasized to make it a matter of popular discussion.

Two remarkable instances of Prof. HILPRECHT's genius for dreaming are related in our news columns. In one case the learned professor, it seems, was in actual danger of being "stumped" by an inscription on two bits of agate. In fact, he was "stumped" for the time being when he went to bed one memorable Saturday night in March, 1893. After he had been asleep a while a middle aged priest of ancient Nippur, more specifically designated for identification as being "long and thin," introduced himself and cleared up the whole matter. It involved a midnight journey to the treasure chambers of the Nippur temple and a rather long story by the priest. But it was all over before daybreak, and Prof. HILPRECHT, lightly clad, was surprising Mrs. HILPRECHT by leaping out of bed and frisking about the room with many exclamations indicative of excitement and satisfaction. He explained his eccentric conduct by telling about his conference with the long, thin priest of pre-Christian Nippur, and the gratifying addition to archeological science that had resulted therefrom.

On another occasion Prof. HILPRECHT was informed through a dream that Prof. DELTZSCH's translation of *Nabu-kadnessar's* was "NEBO, protect my mortal body," was incorrect; that the real translation was "NEBO, protect my boundary."

The acceptance of the latter trans-

lation, revealed to the world through Prof. HILPRECHT's dream gifts, upsets, of course, the mortar board theory that NEBO was a walking delegate of the Nineveh Plasterers' Union. It leaves the question of trades unionism in Mesopotamia just where it was. And all from so delicately shaded a distinction as rendering a word "mortal board" instead of "boundary."

Perhaps the archeological world will some day learn even more fully than it knows now what it owes to Prof. HILPRECHT's surprising power of having dreams. Has this dream feature had its due weight with the distinguished committee that is sifting the present controversy? Delicate psychological questions are suggested—questions involving perhaps the other question whether Prof. HILPRECHT actually did find and do things, or whether he dreamed that he found and did them. Thus the revelation of Prof. HILPRECHT's dream power is not without timely interest.

## The Datto Disease.

Something doing in Jolo. April 9, the Moros fired into the officers' club and broke up the ball. April 10, the secretary of Governor SCOTT was ambushed and killed within range of the sentries.

What is the matter with the infidels? Do they want trial by jury, the initiative and referendum or the recall? Do they ask for popular election of dattos at the primaries?

We find in the *St. Louis Globe-Democrat* some very interesting commentaries on the derring-do of the dattos by a man whose authority to speak will not be questioned, the Hon. WILLIAM HOWARD TAFT. He would make a mighty good "newspaper man," by the way. He takes us to Jolo, with its high wooden wall, "just about the sort of a wooden wall they have about walled towns on the stage." Jolo covers only about twenty acres, and looks smaller. Looks theatrical and unreal, "about as much like a stage lawn as anything you can imagine." A good healthy native could jump across the street, the one main street, "with the great trees lining the sides, just as trim and exact as though painted on the canvas of the stage flies." But what is wrong with the dattos?

"We all know exactly what is going to happen when one of the dattos grows a little sulky over something that the American authorities have done or contemplate doing. They get the dattos who cause them to shake out their eyebrows, the hair from the tops of their heads and from every part of their bodies. They enter the town with a naked sword, wrapped in their long, loose garments. When they get into the town they run amuck, killing and slashing right and left until they either get killed or are sufficiently slashed themselves to incapacitate them. We generally know that the way to cure these natives of their strange ailment is to cut out the diseased and sulky datto, and give him a good drubbing. Then we find that the strange disease suddenly ceases in violent form."

This satirical language is regrettable. When the state of a datto's health forces him to part with his eyebrows and have no hair on the top of his head; when he comes into Jolo in his war ulster and draws his trusty blade, he needs exercise; and he knows what sort of exercise he needs. It is brutal and unhygienic to "give him a good drubbing." The Government should send Mr. FISKE WARREN to organize Health Culture Clubs among the dattos.

## The Lifetime of Joseph Jefferson.

The whole history of the American stage as it was known by actual experience to the generation of which JOSEPH JEFFERSON was one of the comparatively few survivors is brought up by his death in his seventy-seventh year. His career also covered the period in which this country of his birth passed through its most revolutionary changes, political and social.

In 1829, the year of Mr. JEFFERSON's birth at Philadelphia, that town contained only about 165,000 inhabitants and New York was larger by only about a fifth. The population of the whole Union at that time, not much more than twelve millions, was a million less than is now gathered in the two adjoining States of New York and Pennsylvania. In two days last week there landed at New York alone about as many immigrants as came to this country during the whole of the year 1829. Chicago, now the second city of the Union in population, with toward two million inhabitants, was then merely a hamlet in a swamp. The "road," as it is now known to the theatrical managers, was confined to a few towns of the seaboard, so far as it existed at all. West of the Alleghenies there was no considerable town except Cincinnati, with less than twenty-five thousand inhabitants. At St. Louis there were not a quarter as many people; in Cleveland there were only about a thousand, all told. Even ten years later San Francisco was a hamlet with a few hundred inhabitants.

ANDREW JACKSON was inaugurated for his first term as President two weeks after the birth of this actor. It was a time of political upheaval, with certain points of resemblance to the present political condition; but relatively it was a provincial period. Only a beginning had been made in railway construction, and the people of this country, confined chiefly to the fringe of States to the east of the Alleghenies, were separated by barriers of distance which made them strangers to each other. Relatively there was little traveling and the bonds of political union between them were always in danger of snapping because of this estrangement and the distinction of interests which came with it. Promonitions of the inevitable disruption which came a generation later cast a gloom over the spirits of every American statesman.

The American population then was made up almost wholly of people of the colonial period and their descendants. Between 1789 and 1820 only about a quarter of a million of immigrants had come to this country, or only about a quarter as many as will arrive in the present single year. Not until 1820 did the Federal Government look on the movement as sufficient in importance to justify it in keeping official statistics of the immigration, and these show that between

that year and 1830 the number of the arrivals was only about one hundred thousand.

Of negroes there were not much more than two millions, or less than a quarter of the number here now; but the agitation for the abolition of slavery had already begun to be intense within the comparatively small limits to which it was confined. Here in New York an abolitionist was looked on very much as an anarchist is now, and in 1833 and often thereafter abolition meetings were broken up by riotous mobs. Sympathy with the movement was hardly compatible with the current standards of respectability. New York's commerce was largely due to cotton. The volume of its trade, however, was trifling as compared with that of today.

It was not until 1835 that the construction of the Croton aqueduct was decided upon, at about which time the proud boast of the town was that the aggregate capital of its banks had increased to toward twenty million dollars. The fashionable district of the town extended from the Battery to Chambers street, the extreme limit.

New York was a very provincial town in those days, yet its population was less orderly than it is now. The municipal government was inefficient. It was a time of riots, and reformers of to-day would have been horrified by the immoral exhibitions then tolerantly regarded.

In 1849, when Mr. JOSEPH JEFFERSON first acted in New York after his boyhood, a great change had come over the town. The population in ten years had increased from about three hundred thousand to more than half a million, owing chiefly to the great Irish immigration, and building was going on rapidly. The newspapers boasted that for the first time as many as eight theaters were open at the same time; yet life was simple even at that period. LYDIA MARIA CHILD, writing in 1844, described the celebration of St. Valentine's Day as one of the showiest and most imposing of the year. In 1842 a supremely fashionable ball in honor of CHARLES DICKENS had taken place at the Park Theater on that day. The guests numbered twenty-five hundred and included all the representatives of the greatest wealth and fashion of the town; yet Mrs. CHILD wrote of the "rapid approximation to the European style of living"; "the number of servants in family visibly increases every season"; "furniture for a single room is often ordered at a cost of \$10,000." Such evidences of social display, however, were relatively very few. Even ten years afterward the number of considerable private equipages was so small that it could be easily counted up, and they gave peculiar distinction to the families using them. Household service was small, men servants were rare, advertisements of butlers and valets seeking situations did not appear in the newspapers. New York still exemplified the simple life, as compared with the present.

When Mr. JEFFERSON acted in New York in 1849 the telegraph had only recently come into use. Only about seven thousand miles of railway were in operation in the whole Union. It was not till two years later that the completion of the first trunk line to enter the city, the Erie, was celebrated with imposing ceremonies. In 1848 President POLK, in his annual message to Congress, had announced the discovery of gold in California. The provinciality of the community of New York was indicated by the Astor place riot in 1849, provoked by national prejudices aroused by competition between FORREST, the American actor, and MACREARY, an Englishman.

We shall not undertake to go through the career of Mr. JEFFERSON or to give any further comparison to show the great growth of this country during the period. During his active professional life the United States passed through a complete revolution, political, social and artistic. Its foreign born population is now about as great as the whole population in the year of his birth, and since 1829 the additions to it directly by immigration have been more than twenty millions. The whole character of the American has changed. He has become a composite of many races. Only at the South does the original American remain, and there, too, a like transformation will proceed from this time forth. New York, more particularly, has become a community in which other blood than the original American now preponderates vastly. Of Jews alone there are now as many as the population of native parentage, a majority of which is made up of descendants in the third generation of immigrants of the time when Know Nothingism began to be rampant; and the whole number of the foreign born and their native children is four times as great as this.

The Lamp Still Burns in Newfoundland.

Newfoundland has loaded its musket and regards with indifference the possibility of grass grown streets in the principal city of Cape Ann. But Premier BOND, despite the provocation given him, does not quite turn his back upon his Exclusion bill carries a saving clause which leaves in his hands the discretion of the Government, was made on the off chance that the senior Senator from Massachusetts might turn from the error of his ways next winter and so far relent as to anticipate the grass in the streets of Gloucester and restore those highways of commerce to their original and proper uses.

Meanwhile Canada views the situation with complacency. She has ever looked askance at our possible commercial domination, by treaty, of the "senetinel of the St. Lawrence," and there are many Canadians who look upon the present as the psychological moment for reviving Canadian overtures for the inclusion of Newfoundland, at any cost, in the family of Dominion provinces. Should that be done, to Mr. LODGE there will fall the distinguished honor of placing in Canada's hands the strongest card she could hold against the wishes of a greater number of his constituents

than ever sat in dories catching cod with Newfoundland bait.

Commercially, reciprocity treaties are worth only the advantage taken of them by our merchants. The Hay-Bond treaty possessed a much wider significance than the merely commercial. If Mr. BOND is still disposed to be amiable next winter, a little sober second thought may lead New England to open the way for a dicker with the island.

Gambling in the Pale.

Our esteemed contemporary the *Boston Times* points a virtuous and reproving forefinger at New York City:

"It poses as the reputable American Monte Carlo, where the reckless individual may dare and lose all."

The New York Legislature wants to transfer Monte Carlo to Boston and elsewhere. We notice on another page of the *Times* that Boston is mounting a campaign to whist and has a list of public whist parties for every day in the week, except Sunday. It contains also this finely displayed advertisement:

CUT GLASS PUNCH BOWL.  
Value \$50.  
NEW OTHER CUT GLASS PRIZES.  
DRIVE WHEEL, SCORE CARDS \$50.  
THURSDAY EVENING, APRIL 27, 9.30 O'CLOCK.  
AT STUYVESANT CHAMBERS HALL.  
245 HUNTINGTON AVENUE.

It is a curious fact that there is more bridge whist to the square inch within the Boston Pale than anywhere else in gamblersdom. Commuters weep in pain because their wives neglect the baby and the range for bridge. It is played in fierce and crowded public assemblies, at morning, noon and night. There has not been a new religion in Boston for a month and a half. Children in arms and nonagenarians are alike frantic. Homes are broken up, friends are parted by the accused thirst for money and prizes. The dust is an inch thick on translations of DANTE. MATTERLICKING is a back number. Even the gipsy moth and imperialism have lost power to scare.

Chelsea is full of drawn, ferocious faces. Somerville, where the asylum is, grows more populous every day. Even for charity the women gamble without charity for one another. The rigor of the game reigns without truce and mercy. Meanwhile, the ticker is the most popular author. Every slump in stocks piles the ground high with Yankee slain. Every get-rich-quick finds its eagerest "come-ons" on the stern and rockbound coast. Every simple villager takes a flyer. There are small cities where the losses in certain stocks in recent years amount to millions. Finally, the great Nova Scotian altruist of Boston finds among New Englanders the readiest listeners to his preachments and valuable advice and directions.

Why has a people once famous for hardheaded thrift been stung into such paroxysms of aleatory madness? Why is ZENAS COBB, who used to play innumerable games of checkers in the old green store in Toad Hill, now devouring the stock market reports with haggard eyes?

Expel Nature with a pitchfork, but she comes back, all the same. The long suppressed Puritan sporting blood has boiled at last.

A Halifax despatch to the *Toronto Globe* notes Gloucester's first payment on account of the amendment of the Hay-Bond treaty:

"HALIFAX, April 21.—The action of the Newfoundland Government in refusing to allow United States fishing vessels to bait in Newfoundland waters is having its effect upon the Gloucester fleet already. During the past three days thirty sail of American vessels have arrived at Gloucester, having grounds seeking bait. Fortunately a good supply of bait awaited them, herring in unusual quantities being taken in nets. The shore fishermen have benefited by the unusual demand. Some of the bait has been advanced the price paid to netters, and herring that usually sell at 10¢ a barrel have been bringing as high as 85¢. These American vessels have not been allowed to land their herring, which is a bonus for the net fishermen. This is likely to continue throughout the season, as this fleet will be obliged to depend upon the local supply of bait, now that they are shut out of Newfoundland."

In this particular case the Canadians are the beneficiaries.

How to Help Keep the Streets Clean.

TO THE EDITOR OF THE SUN.—In justice to the efficient officers and employees of the Street Cleaning Department, who are doing their best to keep the city clean, it should be known that the city has to struggle with conditions known only in cities of this continent.

With us our streets are our dumping grounds. We do not want to keep our houses clean, and in a country where the supply is so much greater than the need a vast amount of material is wasted.

Europe it is exactly the reverse. There, owing to the centuries of loads upon its resources, every product, natural and manufactured, has its value and is hoarded and treasured and made to serve many purposes. There is no waste, no surplus, where there is a demand. The thrift, care, economy we hear so much of does not arise from choice, but from stern necessity.

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## AMERICAN INTEREST IN THE NEW GERMAN TARIFF.

WASHINGTON, April 21.—Pending the effective operation, in March, 1907, of Germany's new tariff regulations, reciprocity treaties are engaged in arranging reciprocity treaties with her neighbors. The system sanctioned by the law of Dec. 25, 1902, provides for a double set of duties, known as "general" and "conventional." Under the general rate many articles of possible production in Germany are quite effectively barred from importation. The conventional rate will make commerce possible at the price of an exchange of trade opportunities by means of reciprocity treaties.

While it may be assumed that the system has been thoughtfully devised with a view to the conservation of German industries, it is obvious that it cannot be carried out without serious complications. Under its operation the "most favored nation" arrangement will be nullified. That point is fairly established in international usage. England or Germany cannot sell to Cuba, under the "most favored nation" claim, on a tariff footing with the United States. The United States cannot claim a similar right where reciprocity treaties are operative between other countries. In the case of the new German tariff there appears no alternative for the United States. There must be either a reciprocity treaty or some sacrifice of American sales.

This duplex tariff system is not a new institution in Germany, but the law which will go into operation next year introduces new and more stringent features in its application. Until 1900 the United States dealt with Germany on the "most favored nation" basis. On July 18 of that year President McKinley signed an agreement of a reciprocal nature, in conformity with the provisions of the third section of the tariff act approved July 27, 1897. Both this and the "most favored nation" influence will become ineffective under the new German law. Section 1 of that law reads as follows: "With the exception of imports from certain countries, which form the subject of special provisions, goods imported into the German customs territories shall pay the duties established in virtue of the resolutions definitely adopted by the sixteenth commission and presented to the Reichstag Oct. 6, 1902."

In other words, Germany says that those who would enter her doors must pay for the privilege of so doing. Her full right to do this cannot be challenged. Thus far the German Government has declined to commit itself in regard to the price which it would be disposed to charge the United States for the privilege of securing the advantage of the conventional rates. Germany's trade is undoubtedly of importance to us. During the fiscal year ending June 30, 1904, we sold her a little less than \$214,000,000 worth of merchandise, or nearly 15 per cent. of our total exports. About one-half of our sales for that year consisted of raw cotton and copper. This trade would not be affected, as both items remain on the free list. Mineral oil, an important item, remains at the tariff rate, and, last, and an important item, shows only a small advance. The notable advances are in meats and cereals, in which our trade amounts to, approximately, \$17,000,000. The duties on manufactured goods would probably make little difference in our commerce. The new tariff advances rates on some items and reduces them on others.

Stating the matter briefly, it may be said that the German market, which we might have to buy through the medium of a reciprocity treaty is one for which we cannot afford to pay any very high price. The loss of our trade with her would really be more serious to Germany than the loss of her trade would be to us. In fact, a considerable part of the \$110,000,000 worth of goods which we bought from her last year might very well be made in our own shops and factories. But in a way Germany holds the master hand. Her tariff law permits not only a system of premiums, through its "conventional" rate, but as well a means of penalizing through its "general" rate. It is in her power to strike us, but we have no readily available means of striking in return. We cannot say that if she wants our copper and raw cotton she must also give us a chance to sell wheat, flour and beef. But she can say to us that if we do not want to pay for her goods, we must be barred out by preference to her own people or to the people of some country entering into convention with her. Nor can we say to Germany that if she charges her general rate on purchases from this country, a surtax would be imposed on her products entering the United States. Our system allows the offer of a premium through reciprocity, but it does not provide for retaliation as the German system does.

The entire matter, however, resolves itself into a fairly distinct business proposition. Germany is by no means indifferent to the value of the United States market, and is in no way desirous of incurring our commercial hostility. A few hours of figuring on available itemized lists would show with accuracy the net increase in the sales of the United States to Germany from the United States and the net increase on each line of goods affected. Another tabulation would show what German goods could be admitted to our market under section 3 of the Dingley law or under section 4 of that law, if we saw fit to stretch it a little as we did in the case of Cuba.

The relative value of the respect we make being thus established for a working basis, a mutually satisfactory arrangement might be reached.

Local Opinion in Truth Avenue.

TO THE EDITOR OF THE SUN.—The enactment of the law of the local opinion bill now before the Senate would work havoc with the saloons in Truth Avenue, in which I live and where I daily witness the ruin of men brought about through the greed of the owners of saloons. In the very house where I live there is a man who is the father of three children, and who in consequence of excessive drinking has lost his job and whose wife, although frail and delicate, is obliged to be in the washing to keep a roof over her three helpless children. This unfortunate father and husband spends his time in a barroom in an upstairs street, the proprietor of which is said to own several horses and a carriage.

Yet the poor fools who frequent his two grogeries are the people whose earnings enable this saloon keeper to buy his horses and carriages for his boys, while the patrons go without shoes on their feet in summer.

In the destruction of the saloons under local option the doctors, God helping them, will do their share.

NEW YORK, April 24.

Drunk Brutes at the Stock Yards.

TO THE EDITOR OF THE SUN.—Under the title of "Standard Fakes," President John P. Haines declares in our *Animal Farm* of April that the late publication in the *Sun* of Jan. 12, and signed "John H. Paasmore, Superintendent of Construction," regarding the actual cruelty to the animals in the New York stock yards, comes under the above title.

As no doubt Mr. Paasmore is a reader of the *Sun*, will he be in the interest of humanity, decency and truth

"plead the cause of those dumb mouths that have no speech" by refuting the above accusation?

This unbecoming abuse of helpless dumb creatures cries to heaven for vengeance.

CORRELLA M. ARNOLD.

SCARLETON-ON-HUDSON, April 22.

Flowers of Spring.

The roses that bloom in the spring, 'tis I, have put on their robes of red and white. The leaves on the trees, that don't want to freeze, are wearing their muffler-erens.

The crocus is calling for hot water bags. The daisy, when it finds it no joke to shiver and shake, is in the half from lake, are getting their wraps out of oak.

The pansies, arrayed in their velvet attire of purple and varying hues, are trying to smile. And putting meanwhile, Cayenne in their overshoots.

The daffodils, gleaming in golden array, aroused from their slumbery dream, are blinking the sun.

For more engineers and an extra supply of steam.

There isn't a blooming old flower that grows in garden, or park, or field, which hasn't turned out to be a rascal and a rogue.

To know where its rascals are at, watch the flowers in the garden.

W. J. L.

Where the Profits Come From.

TO THE EDITOR OF THE SUN.—Sir: Apropos of the present discussion of life insurance affairs, it seems to me that the following figures taken from the latest reports of the three great companies may be interesting. The total assets reported are:

New York Life	\$300,000,280.35
Equitable Life	\$149,939,020.74
Mutual Life	\$40,978,871.10
Total	\$1,345,561,682.25

The total income from rents and interest, or, in other words, the earnings from these assets, is as follows:

New York Life	\$12,591,018.94
Equitable Life	\$10,463,809.21
Mutual Life	\$18,070,487.27
Total	\$41,125,316.42

The expenses over and above payments to policyholders are:

New York Life	\$19,243,145.85
Equitable Life	\$15,579,404.15
Mutual Life	\$16,656,188.10
Total	\$51,478,738.10

Therefore the earnings from more than \$1,300,000,000 of assets fall nearly \$2,000,000 short of paying the running expenses of these companies. How can companies which use up in expenses more than all their earnings pay?